



United States Department of the Interior
BUREAU OF LAND MANAGEMENT
FILLMORE FIELD OFFICE
35 East 500 North
Fillmore, Utah 84631

cc: Tom
Susan



In Reply Refer to:
3802
(U-010)
UTU 79861

May 4, 2006

CERTIFIED MAIL #7005 0390 0004 6557 8315
RETURN RECEIPT REQUESTED

DECISION

ROBERT STEELE
1055 NORTH 400 EAST
NEPHI UT 84648

43 CFR 3802
PLAN OF OPERATIONS

PLAN REJECTED. ANTICIPATED IMPACTS ARE SUCH THAT ALL OR PART OF THE PROPOSED MINING OPERATIONS WILL IMPAIR THE SUITABILITY OF THE AREA FOR PRESERVATION AS WILDERNESS

On March 6, 2006 the Fillmore Field Office (FFO) of the Bureau of Land Management (BLM) received a copy of a Utah Division of Oil, Gas and Mining (DOGM) Notice of Intention to Commence Small Mining Operations (Plan) that you submitted to them for mining operations you propose on and around Utah Mining Claims UMC 365721, UMC 365722 and UMC 367303 in T 21 S, R 16 W, sections 7 and 8. On April 11, 2006 we received an additional copy of the Plan as an attachment with a letter from attorney David O. Leavitt. This proposed mining activity is within the King Top Wilderness Study Area, UT-050-070, and is subject to regulations 43 CFR § 3802 and the Interim Management Policy for Lands Under Wilderness Review, Handbook H-8550-1 (IMP).

A review of your Plan as evaluated on the attached "Wilderness Study Area Interim Management Impairment/Non-Impairment Evaluation Form" (Evaluation Form) shows that the activities proposed in your Plan are subject to "Management to the Nonimpairment Standard" as described in IMP, page 5. Generally, all activities permitted in WSAs must be temporary uses that create no surface disturbance, and do not involve permanent placement of structures. The nonimpairment standard leaves the final decision on permanent wilderness designation for each WSA to Congress. Management under the nonimpairment standard protects Congress' prerogative to make the designation decision by preventing actions that would pre-empt that decision.

As described in the attached Evaluation Form, BLM has determined that your Plan will entail action within the WSA that would lead to the impairment of suitability for inclusion in the Wilderness System. Your proposed action does not meet any of the exceptions (i.e., grandfathered use, valid existing right) to the nonimpairment standard described in IMP, I.B.2., page 9. Your proposed action would create surface disturbance and involves the placement of permanent structures. Accordingly, your Plan is rejected.

If you do not agree and are adversely affected by this decision, in accordance with 43 CFR 3809.804, you may request that the Utah BLM State Director review this decision. If you request a State Director review, the request must be received in the Utah BLM State Office, P.O. Box 45155, Salt Lake City, Utah 84145-0155, no later than 30 calendar days after you receive this decision. A copy of the request must also be sent to this office. The request must be in accordance with the provisions provided in 43 CFR 3809.805. If a State Director review is requested, this decision will remain in effect while the State Director review is pending, unless a stay is granted by the State Director. Standards for obtaining a stay are given below. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

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DIV. OF OIL, GAS & MINING

If the State Director does not make a decision on your request for review of this decision within 21 days of BLM's receipt of the request, you should consider the request declined and you may appeal this decision to the Interior Board of Land Appeals (IBLA). You may contact the (enter appropriate State) BLM State Office to determine when BLM received the request for State Director Review. You have 30 days from the end of the 21 day period in which to file your notice of appeal with the IBLA (see procedures below).

If you wish to bypass a State Director review, this decision may be appealed directly to the IBLA in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office Fillmore Field Office, 35 East 500 North, Fillmore, Utah 84631 within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulations 43 CFR 4.21 for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the IBLA, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of this notice of appeal and petition for a stay must also be submitted to each party named in the decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

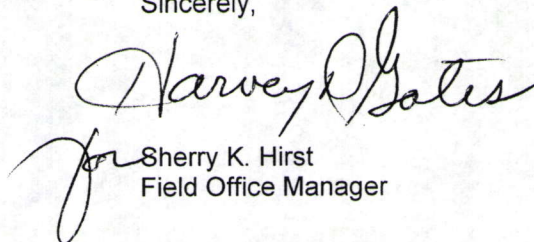
Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

1. The relative harm to the parties if the stay is granted or denied,
2. The likelihood of the appellants success on the merits,
3. The likelihood of immediate and irreparable harm if the stay is not granted, and
4. Whether the public interest favors granting the stay.

We are willing to work with you to help identify ways that you may operate within the WSA while complying with the nonimpairment criteria required for post-FLPMA mining claims. Please contact Jerry Mansfield, Geologist at (435) 743-3125.

Sincerely,


Sherry K. Hirst
Field Office Manager

Enclosures:

- 1 – Wilderness Study Area Interim Management Impairment/Non-Impairment Evaluation Form (8 p.)
- 2 – Form 1842-1, Information on Taking Appeals to the Board of Land Appeals (2p.)

cc: U-923, w/enclosure -1
UDOGM (S/027/084)